

Presumptive Discharge (Early Release) Policy

Approved: 

Date: October 2015

I. Policy

Probation staff shall forward a request for early release to the sentencing court in all cases meeting the criteria for presumptive discharge as defined in Nebraska Supreme Court Rule § 6-1903.

II. Purpose

To ensure the length of supervision is consistent with the risk and need of individuals and fully incorporated into probation supervision practices by providing structure for early discharge where appropriate, thereby maximizing probation resources.

III. Reference

[Supreme Court Rule § 6-1903](#)

[Neb. Revised Statute 29-2252\(7\) and \(11\)](#)

[Neb. Revised Statute 29-2263\(1\) and \(2\)](#)

IV. Procedure

A. Definitions:

1. Major Violations: include new law violations, absconding from supervision, or continued evidence of high risk behaviors.

B. Criteria for an early discharge for probationers

1. Pursuant to statute the court may consider early discharge at any time.
2. Notwithstanding interstate compact cases, a probation officer will petition the court for early discharge when:
 - a) The probationer has served three-quarters of the imposed sentence;
 - b) There have been no major violations during the preceding six months;
 - c) The probationer is in compliance with all other conditions, including but not limited to being current on fees owed, and restitution and fines are paid in full.
 - d) The assessed risk level indicates the individual is at below a “high risk” of recidivism
3. Prior to the petition for early discharge the probation officer will:

- a) Prepare a discharge summary which includes a narrative of the probationer's compliance with the probation order, treatment and programs completed to date, chemical testing results, a historical overview of incentives and sanctions applied, and their present risk level.
- 4. Probationers in arrears on fines, fees, or restitution will not be eligible for early discharge until such all financial obligations are paid up or off.
- 5. When submitting the petition for early discharge on eligible probationers the probation officer will also submit a discharge summary detailing the reasons for the early release request, an order for early discharge, and a waiver request for the remainder of fees accrued subsequent to the original release date.
- 6. Applicable victims shall be notified upon probation officer's request for early release.
- 7. Upon the determination by the Court of the approval or denial for early discharge, the probation office will obtain a copy of the approved or denied order for early discharge and notify the probationer of the Court's decision.
- 8. The Request for Early Release and the Court's decision shall be entered in the Nebraska Probation System's Data Management Information System and closed out as applicable.